

REMARKS

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It is hereby requested that the time for responding to the Office Action be extended one month, to April 23, 2003. The fee for the extension for a small entity of \$55 is submitted herewith. Please charge any deficiency or credit any overpayment to Deposit Account No. 22-0261.

Examiner Addie and Examiner Will are thanked for the courtesy of the interview held on February 25, 2003. In the communication mailed March 3, 2003 the Examiner set forth a written description of the substance of the interview, which the applicant believes requires further amplification. In the final rejection, claims 1, 5, 6, 8, 11 and 12 stand rejected as being anticipated by the Scheiwiller patent No. 5,533,827. The Examiners contended at the interview that the word "cuboidal" used to describe the paving stone in Figure 1a means that this paving stone is disclosed as being substantially cubical. The applicant's argument was that the word "cuboidal" is used to describe all of the stones in Figures 1a, 1b, 1c, 1d, and 1e and since most of the stones do not even approach a cubical shape, a person with ordinary skill in the art would not understand the word "cuboidal" as meaning approximately cubical and that considering the reference as a whole the Scheiwiller patent does not constitute a teaching that the stone shown in Figure 1a is approximately cubical. At the interview it was further argued on behalf of the applicant that the stone shown in Figure 1a was not disclosed as being cubical or even suggested it being cubical in view of the fact that the height of the stone shown in Figure 1a is represented by the letter "m" which same letter is used to show the height of all the stones in Figures 1a-1e, indicating that the height of each of the stones is the same dimension "m," whereas the length and width of the stone shown in Figure 1a, as

represented by a different letter “a” clearly indicating that the length and width “a” of the stone are different than the height “m” of the stone. The Examiner was not persuaded by these arguments because he considered the main stone of the disclosure to be Figure 1a and the reference to the remaining stones of Figures 1b-1e as also being cuboidal had no significance because these remaining stones were considered modifications of the cuboidal stone shown in Figure 1a. In the Examiner’s view, this consideration means that the use of the word cuboidal to describe the stones in Figures 1b-1e did not mean that the term had a meaning other than approximately cubical.

The Examiner further argued in the interview that the stone of Figure 1a was approximately cubical as disclosed in the reference because the reference does not indicate that the dimension “m” could not be “a” and that therefore the stone of Figure 1a encompassed an approximately cubical stone. The applicant contended that merely encompassing a cubical stone is insufficient to constitute a teaching that would be understood by a person with ordinary skill in the art that the stone was cubical. The Examiner relied upon a dictionary definition of cuboidal, which is “somewhat cubical,” contending that “somewhat cubical” was the same as “approximately cubical” and that it would have at least been obvious to make the stone of Figure 1a cubical in view of its description as cuboidal and the dictionary definition of the word cuboidal. The applicant contended that “somewhat cubical” is not the same as “approximately cubical” and that “somewhat cubical” is an indefinite description, particularly in view of the fact that the patent describes all of the stones shown in Figures 1a-1e as cuboidal. It is submitted that a person with ordinary skill in the art would have no reason to modify the stone shown in Figure 1a to be approximately cubical.

With this amendment the claims have been further amended to clarify the distinctions of the invention as claimed from the prior art. Claim 1, as amended, requires one of the faces of the molded block to be substantially planar over substantially its entire surface area and one of the faces of the molded block to have a curved portion extending towards one side edge of the molded block over at least one-sixth of the face of the molded block and that the perpendicular distances between the planar portions of the opposite side faces are equal. By making this dimension equal the applicant's paving stone can be laid in any orientation and thus present the differently shaped faces and side edge profiles at the same height as the top surface of the paved area as shown in Figure 4. This concept of the paving stone with the differently shaped faces in the form of a cube wherein the distances between the opposite faces are equal so that the stone can be laid in the different orientations with the different shaped faces and profiles facing upwardly is not suggested in any of the prior art.

For the above reasons and the reasons presented at the interview, it is submitted that claims 1, 5, 6, and 8 are patentable over the Scheiwiller patent.

The Examiner has rejected claims 2 and 7 as being unpatentable over the Scheiwiller patent in view of the patent to McClintock No. 957,985. These claims distinguish from this combination of references for the same reasons given above with respect to the rejection of claim 1 on the Scheiwiller patent. In this rejection, the Examiner contends that the McClintock patent has six identical sides all of which could be used as an upper face and that this makes it obvious to use the paving stone in Scheiwiller in a manner such that any of the sides of the block of McClintock could be used as the top paving surface. It is submitted that the Examiner's position is clearly

erroneous. The fact that McClintock has a block with identical six sides does not suggest or make it obvious to use the paving stone in Scheiwiller which has differently shaped faces as the top paving surface. More importantly, there is nothing in either McClintock or Scheiwiller to suggest to a person with ordinary skill in the art to modify the molded block in Scheiwiller to be in a form so that each of the faces of the Scheiwiller patent can be used as a horizontal upper face during laying as recited in claim 2. Nor can any reason be found in either Scheiwiller or McClintock to make one edge to be sharp edged as recited in claim 7.

The Examiner's has rejected claims 3 and 4 as being unpatentable over the Scheiwiller '827 patent in view of the Scheiwiller patent No. 4,627,764. These claims distinguish from the combination of the two Scheiwiller patents for the same reasons given above in connection with the rejection of claim 1 on the Scheiwiller '827 patent alone. In connection with this rejection the Examiner contends that the '827 patent discloses oblong blocks that have planar sides that obviously can be used as the horizontal upper face. However, none of the sides other than the top surface 10 and presumably the bottom surface of the stones in the '827 patent are planar. Moreover, the disclosure of the patent clearly indicates that the stone is designed to have only the face 10 of the stone to be the upper face and, contrary to the Examiner's contention, it would not be obvious to lay the oblong stone in the Scheiwiller patent with the side surface as the top surface.

With respect to claim 4, the Examiner contends that the '764 patent makes it clear that the stone may have any other shape in view of the showing of the specific shape in

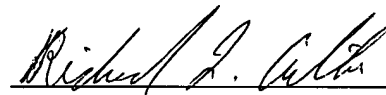
Figure 10. However, such disclosure in Scheiwiller clearly fails to suggest having a stone the shape of that recited in claim 4.

New claim 12 is dependent upon claim 1 and requires at least two of the surfaces of the stone to be flat over the entire area of the faces. New claim 13 is directed to a laid set of paving stones, as shown in Figure 4, wherein some of the paving stones have the faces which are planar over their entire surface area facing up and some of the stones having the faces with curved portions facing up to provide a more interesting and variegated pattern in the laid paving stones. Clearly none of the references disclose such a laid set of paving stones.

In view of the foregoing it is submitted that this application is now in condition for allowance and favorable reconsideration thereof is earnestly solicited.

Respectfully submitted,

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